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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,244	12/16/2004	Kazuya Sugimura	IS-US040596	8322
22919	7590	12/30/2005	EXAMINER	
SHINJYU GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			SIPOS, JOHN	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/518,244

Applicant(s)

SUGIMURA ET AL.

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

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|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/11/05</u> . | 6) <input type="checkbox"/> Other: ____  |

### ***MISCELLANEOUS***

Claim 6-8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may not depend on another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 6-8 have not been further treated on the merits.

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### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

**Claims 1,3/1 and 5/1** are rejected under **35 U.S.C. ' 102(e)** as being anticipated by the publication to Engesser (2004/0020941). The Engesser publication shows a packaging system comprising a former 10 for forming a film into a tube, longitudinal sealing means 11, transverse sealers 12 and dispersing tubes 1,6... for filling the formed film tube with different materials with the mouth of the dispersing tubes being positioned in the film tube. The specific product being placed in the film tube is given

little patentable weight in apparatus claims since it is the structure that is being positively claimed. Note that the object of the Engesser publication is to mix the diverse product materials during the packaging operation rather than have the materials premixed (see column 1, lines 13 et seq. and line 61 et seq.).

**Claims 1,3/1,4/1 and 5/1** are rejected under **35 U.S.C. ' 102(b)** as being anticipated by the patent to Davis (4,769,974). The Davis patent shows a packaging system comprising a former for forming a film into a tube, longitudinal sealing means 26,28, transverse sealers 32,34 and dispersing tubes 64,66,82,84,86,94,96 for filling the formed film tube with different materials including a gas with the mouth of the dispersing tubes being positioned in the film tube. The specific product being placed in the film tube is given little patentable weight in apparatus claims since it is the structure that is being positively claimed. Regarding claim 4, note that the product fill tubes 64,66 join gas fill tubes 94,96 with a single dispersing mouth.

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The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**Claims 2,3/2 and 5/2** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over Engesser (2004/0020941). Regarding claim 2, the use of electrical charging means to disperse materials is well known in the art and filling the film tubes

with electrical charging means would have been obvious to one skilled in the art to use in the machine of Engesser.

**Claim 4/3** is rejected under **35 U.S.C. ' 103(a)** as being unpatentable over Engesser (2004/0020941) in view of Davis (4,769,974). It would have been obvious to one skilled in the art to feed a substitute gas into the package of Engesser and to feed the gas and the product material through a single pipe as taught by Davis to reduce the number of filling pipes extending into the film tube.

**Claims 2,3/2 and 5/2** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over Davis (4,769,974). Regarding claim 2, the use of electrical charging means to disperse materials is well known in the art and filling the film tubes with electrical charging means would have been obvious to one skilled in the art to use in the machines of Davis.

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### ***ADDITIONAL REFERENCES CITED***

The cited prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should


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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4468**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.

The **FAX** number for U.S. Patent and Trademark Office is **(571) 273-8300**.



**John Sipos**  
**Primary Examiner**  
**Art Unit 3721**